of recitals the legal significance of which is very far from obvious, nor has the evidence given them any such meaning. It is, however, clear that the guarantor makes no pretence to any title nor power of disposition. If any implication were to be drawn from the words used, then "custody and control" must be read as a denial of either. The first Defendant's beliefs as to the acts of the legitimate sovereign are wholly irrelevant. No act of that sovereign is in question, but the primary question is whether the true owner is bound by a reconveyance made by one not, even, professing to have title to make it. She does not say how or by whom these beliefs were induced; nor could she have had any reasonable belief in the legal power of the Japanese Custodian of Property to reconvey. This reconveyance is the document the second Defendant is bound to accept, and has accepted, with a recital of incunbrances which are not legally discharged. On that the first Defendant has made an assignment importing the covenants on which the second Defendant relies. I should not have believed that any reasonable persons, regardless though they may be of the interests of others, would with the knowledge of events then current in Singapore have knowingly made these covenants. Owing to the course the defence has taken the possibly more substantial question of how far the parties are bound by undertakings both knew or should have known were illusory was not considered. The case would not seem to differ from the promise of an impossibility. The second Defendant relies on these covenants, which are absolute and binding without regard to consideration or circumstances. The plaintiff claims on her mortgage from first Defendant; the breach is not denied. I am therefore unable to see any defence to this claim and make the declaration asked.

Order accordingly.

ROBINSON & CO. LTD. v. REX.

[App. Crim. Juris. (Murray-Aynsley, C.J) June 21, 1950]

[Singapore — Magistrate's Appeal No. 69 of 1950]

Weights and Measures Ordinance (Cap. 204), s. 13(1)(b) — Scope of requirement of stamping under the Ordinance — Whether domestic or family scales come within the ambit of the Ordinance.

In this case the appellants were charged with selling a family scale which had not been stamped under the Weights and Measures Ordinance and were convicted of an offence under section 13 (1) (b) of the Ordinance. The appellants appealed.

Held, that the requirement of stamping under the Weights and Measures Ordinance only applied to instruments for weighing or measuring which can usually be expected to be used in trade and did not apply to ordinary domestic apparatus.

MAGISTRATE'S APPEAL.

K. Gould for the appellants.

A. V. Winslow (D. P. P.) for the Crown.

Murray-Aynsley, C. J. : — In this case the appellants were convicted of an offence against section 13 (1) (b) of the Weights and Measures Ordinance, Cap. 204.

The material parts of the section read as follows :—

"13 — (1) Any person who — . . . . . .

(b) sells any weight, measure or instrument for weighing which is not stamped under this Ordinance; or . . . . . .

shall be liable to a fine not exceeding one hundred dollars, or in the case of a second offence two hundred and fifty dollars."

The facts were as follows. An Inspector belonging to the Weights and Measures Branch found in a certain hardware store of this city an apparatus or instrument for weighing. It had been sold to the proprietors of that shop by the appellants. It was not stamped under the Ordinance.

The particular instrument was an ordinary domestic or family scale. It could be adjusted by means of the centre pivot. Therefore it should not in any case be stamped and could not be used for trade. Section 5 of the Ordinance requires the stamping of instruments for weighing, etc. if they are used for trade. If they are not used for trade there is no requirement for stamping.

Now it is notorious that there are many instruments for weighing which are not intended to be used for trade. Examples are the ordinary kitchen scales used in the course of preparing food and the bathroom scales which valetudinarians use to weigh their persons. If these were made to a standard of accuracy necessary for purposes of trade they would be too expensive for most people. I think, therefore, that the section must, if possible, be read in a way that makes it possible to avoid this absurdity, which is bad enough in the case of instruments for weighing and becomes quite fantastic when applied to measures. Most cooks use tea-cups as measures.

I think therefore that the requirement of stamping under this Ordinance must be taken as limited to instruments that can normally be expected to be used in trade and not extended to ordinary domestic apparatus.

The appeal is allowed and conviction quashed. Fine, if paid, to be refunded.

Appeal allowed.